

FEBRUARY 27, 1816.

Read twice and committed to a committee of the whole House
to-morrow.

A Bill

To establish an uniform system of Bankruptcy throughout the United States.

1 *Be it enacted by the Senate and House of Representatives of*
2 *the United States of America, in Congress assembled, That*
3 if any merchant or other person, residing within the United
4 States, actually using the trade of merchandise, by buying and
5 selling in gross, or by retail, or dealing in exchange, or as
6 a banker, broker, factor, underwriter, or marine insurer, or
7 actually using any other trade for the purpose of profit, shall,
8 with intent unlawfully to delay or defraud his or her creditors,
9 depart from the State in which such person usually resides, or
10 remain absent therefrom, or conceal him or herself therein, or
11 keep his or her house, so that he or she cannot be taken or
12 served with process, or depart from his or her dwelling house,
13 or willingly or fraudulently procure him or herself to be arrest-
14 ed, or his or her lands, goods, money, or chattels, to be attach-

15 ed, distrained, sequestered, or taken in execution, or shall se-
16 cretly convey his or her goods, out of his or her house, or
17 conceal them to prevent their being taken in execution, or make
18 or cause to be made any fraudulent conveyance of his or her
19 lands, or any fraudulent conveyance, bill of sale, or other
20 written transfer of his or her chattels, or make or admit any
21 false or fraudulent security or evidence of debt ; or being ar-
22 rested for debt, or having surrendered him or herself in dis-
23 charge of bail, shall remain in prison two months, or more, or
24 escape therefrom ; or whose lands or effects being attached by
25 process issuing out of, or returnable to, any court of common
26 law, shall not, within two months after written notice thereof,
27 enter special bail and dissolve the same ; or in districts in which
28 attachments are not dissolved by the entry of special bail, be-
29 ing arrested for debt after his or her lands or effects, or any
30 part thereof, have been attached for a debt or debts, amounting
31 to five hundred dollars or upwards, shall not, upon notice of
32 such attachment, give sufficient security for the payment of
33 what may be recovered in the suit in which he or she shall be
34 arrested, at or before the return day of the same, to be approv-
35 ed by the judge of the district, or some judge of the court out
36 of which the process issued, upon which he is arrested, or to
37 which the same shall be returnable, every such person shall
38 be deemed and adjudged a bankrupt ; and in the said case of

39 arrest, or lying in prison, or neglecting to dissolve attachments
40 by the entry of special bail, or giving security as aforesaid,
41 from the time of such first arrest, lying in prison or attach-
42 ment: *Provided*, That no person shall be liable to a com-
43 mission of bankruptcy, if the petition be not preferred in man-
44 ner hereinafter directed, within six months after the act of
45 bankruptcy committed.

1 SEC. 2. *And be it further enacted*, That the judge of the dis-
2 trict court of the United States, for the district where the
3 debtor resides, or usually resided, at the time of committing
4 the act of bankruptcy, or any one of the judges of the su-
5 preme court of the United States, who shall be allotted to the
6 circuit court for such district, upon petition in writing against
7 such person or persons being bankrupt, to him to be exhibited
8 by any one creditor, or by a greater number, being partners,
9 whose single debt shall amount to five hundred dollars, or by
10 two creditors, whose debt shall amount to seven hundred and
11 fifty dollars, or by more than two creditors, whose debts shall
12 amount to one thousand dollars, shall, by commission under
13 his hand and seal, appoint three persons to be commissioners
14 in the case of the bankrupt petitioned against. And if any
15 of the said commissioners so appointed, shall die, or neglect
16 or refuse to act, or shall become unfit to act, or incapable of
17 acting, either of such judges shall appoint other commissioners,

18 from time to time, as occasion may require : *Provided always,*
19 That before any commission shall issue, the creditor or credi-
20 tors petitioning shall make affidavit or solemn affirmation, be-
21 fore the judge hereby authorized to issue the commission, of the
22 truth of his, her, or their debts, and give bond, to be taken by
23 the said judge, in the name and for the benefit of the said party
24 so charged as a bankrupt, and in such penalty, and with such
25 surety as he shall require, to be conditioned for the proving
26 of his, her, or their debts, as well before the commissioners,
27 as upon a trial at law, in case the due issuing forth of the
28 said commission shall be contested ; and, also, for proving the
29 party a bankrupt, and to proceed on such commission in the
30 manner herein prescribed. And if such debt shall not be
31 really due, or after such commission taken out, it cannot be
32 proved that the party was a bankrupt, then the said judge
33 shall, upon the petition of the party aggrieved, in case there
34 be occasion, deliver such bond to the said party, who may
35 sue thereon and recover such damages, under the penalty of
36 the same, as, upon trial at law, he shall make appear he has
37 sustained, by reason of any breach of the condition thereof.
38 And no commission of bankruptcy shall be avoided by reason
39 of any act of bankruptcy having been committed by the per-
40 son against whom such commission shall have issued, prior to
41 the contracting of the debt of the creditor upon whose petition

42 such commission shall have issued, if such petitioning creditor
43 had not any notice of such act of bankruptcy at the time
44 when the debt to him was contracted.

1 SEC. 3. *And be it further enacted*, That the judge of the dis-
2 trict of the United States, for the district where the debtor
3 resides, or usually resided at the time of committing the act
4 of bankruptcy, or any judge of the supreme court of the United
5 States, who shall be allotted to the circuit court for such
6 district, shall have power, by commission under his hand and
7 seal, to appoint such good and substantial persons, being citi-
8 zens of the United States, and resident in such district, as such
9 judge shall deem proper, not exceeding three, to be commis-
10 sioners of the said bankrupt. And the said commissioners
11 shall have power to appoint a clerk, who shall be allowed for
12 his services, when sitting and acting under the commission,
13 such reasonable compensation as the judge in his discretion
14 may direct. And the judge who may have issued such com-
15 mission, shall fix a rate of allowance for such contingent ex-
16 penses, as may accrue in executing the said commission, to be
17 paid out of such bankrupt's estate.

1 SEC. 4. *And be it further enacted*, That before the commis-
2 sioners shall be capable of acting, they shall respectively take
3 and subscribe the following oath or affirmation, which shall be

4 administered by the judge issuing the commission, or by any of
 5 the judges of the supreme court of the United States, or any
 6 judge, justice, or chancellor of any state court, and filed in the
 7 office of the clerk of the district court : “ I, A B, do swear, or
 8 affirm, that I will faithfully, impartially, and honestly, ac-
 9 cording to the best of my skill and knowledge, execute the
 10 several powers and trusts reposed in me as a commissioner
 11 in a commission of bankruptcy, against, ——— ———, and
 12 that without favour or affection, prejudice or malice.” And
 13 the commissioners who shall be sworn as aforesaid, shall pro-
 14 ceed, as soon as may be, to execute the same ; and upon due
 15 examination, and sufficient cause appearing against the party
 16 charged, shall and may declare him or her to be a bankrupt :
 17 *Provided*, That before such examination be had, reasonable
 18 notice thereof, in writing, shall be delivered to the person
 19 charged as a bankrupt ; or if he or she be not found at his or
 20 her usual place of abode, to some person of the family above
 21 the age of twelve years ; or if no such person appear, shall be
 22 fixed at the front or other public door of the house, in which
 23 he or she usually resides, or resided ; and thereupon it shall
 24 be in the power of such person, so charged as aforesaid, to de-
 25 mand in writing, before or at the time appointed for such ex-
 26 amination, that a jury be empaneled, to inquire into the fact
 27 or facts alleged as causes for issuing the commission, or other
 28 act or acts of bankruptcy, committed within six months before

29 the issuing of said commission, and on such demand being made,
30 the same shall be certified by the commissioners to the judge
31 granting the commission ; and thereupon the inquiry shall be
32 had before the judge granting the commission, or his successor,
33 and it shall be lawful for such judge, for this purpose, to order
34 a jury to be summoned, or empaneled in such manner as he
35 shall in his discretion deem meet, and at such time and place
36 as he shall direct, and to compel the attendance of the jurors
37 and witnesses by attachment, or other proper process at such
38 time and place as he may direct, and in that case, such person
39 shall not be declared bankrupt, unless, by the verdict of the ju-
40 ry, he or she shall be found so to be, within the description of
41 this act, and shall be convicted of some one of the acts described
42 in the first section of this act: *Provided*, That any commission
43 which shall be taken out as aforesaid, and which shall not be
44 proceeded in as aforesaid, within thirty days thereafter, may be
45 superseded by either of the judges authorized to issue the
46 commission, upon application of the party thereby charged as
47 a bankrupt, or of any creditor of such person, unless the delay
48 shall have been unavoidable, or for just cause. *And Provided*,
49 That where any such other act or acts of bankruptcy shall be al-
50 leged, it shall be the duty of the said judge, on the application
51 of the bankrupt or any other person, to adjourn the inquiry for
52 such reasonable time as may be necessary, to enable the bankrupt
53 or such other person to contest such act or acts of bankruptcy.

1 SEC. 5. *And be it further enacted,* That the commissioners
 2 so appointed as aforesaid, shall have power, forthwith, after
 3 they have declared such person a bankrupt, to cause to be ap-
 4 prehended, by warrant under their hands and seals, (to be di-
 5 rected to such person or persons as they shall think fit,) the
 6 body of such bankrupt, wheresoever to be found, within the
 7 United States, and to bring such bankrupt before the said com-
 8 missioners to be examined: *Provided,* They shall think that
 9 there is reason to apprehend that the said bankrupt intends to
 10 abscond or conceal him or herself; and in case it be necessary,
 11 in order to take the body of the said bankrupt, shall have
 12 power to cause the doors of the dwelling house of such bank-
 13 rupt to be broken, or the doors of any other house in which
 14 he or she shall be found.

1 SEC. 6. *And be it further enacted,* That it shall be the duty
 2 of the commissioners so appointed as aforesaid, forthwith, af-
 3 ter they have declared such person a bankrupt, and they shall
 4 have power to take into their possession all the estate, real and
 5 personal, of every nature and description to which the said
 6 bankrupt may be entitled, either in law or equity, in any man-
 7 ner whatsoever, and cause the same to be inventoried and ap-
 8 praised to the best value, (his or her necessary wearing ap-
 9 parel, and the necessary wearing apparel of the wife and child-

10 ren, and necessary beds and bedding of such bankrupt and
 11 his family only excepted,) and also to take into their posses-
 12 sion, and secure, all deeds and books of account, papers, and
 13 writings, belonging to such bankrupt; and shall cause the
 14 same to be safely kept, until assignees shall be chosen or ap-
 15 pointed, in manner hereafter provided.

1 SEC. 7. *And be it further enacted,* That the said commis-
 2 sioners shall forthwith, after they have declared such person
 3 a bankrupt, cause due and sufficient public notice thereof to
 4 be given, and in such notice shall appoint some convenient
 5 time and place for the creditors to meet, in order to choose an
 6 assignee or assignees of the said bankrupt's estate and ef-
 7 fects; at which meeting the said commissioners shall admit
 8 the creditors of such bankrupt to prove their debts. And
 9 where any creditor shall reside at a distance from the place
 10 of such meeting, or from sickness or other disability, duly
 11 proved on affidavit, shall be unable to attend, shall allow the
 12 debt of such creditor to be proved by oath or affirmation,
 13 made before some competent authority, and duly certified, and
 14 shall permit any person duly authorized by letter of attorney
 15 from such creditor, due proof of the execution of such let-
 16 ter of attorney being first made, to vote in the choice of an
 17 assignee or assignees of such bankrupt's estate and effects, in

18 the place and stead of such creditor : and the said commission-
 19 ers shall assign, transfer, or deliver over, all and singular, the
 20 said bankrupt's estate and effects aforesaid, with all muniments
 21 and evidences thereof, to such person or persons as the major
 22 part, in value, of such creditors, according to the several
 23 debts then proved, shall choose as aforesaid : *Provided always,*
 24 That in such choice, no vote shall be given by, or in behalf
 25 of, any creditor whose debt shall not amount to two hundred
 26 dollars.

1 SEC. 8. *Provided always, and be it further enacted,* That it
 2 shall be lawful for the said commissioners, as often as they
 3 shall see cause, for the better preserving and securing the
 4 bankrupt's estate, before assignees shall be chosen as aforesaid,
 5 immediately to appoint one or more assignee or assignees of
 6 the estate and effects aforesaid, or any part thereof; which
 7 assignee or assignees aforesaid, or any of them, may be remov-
 8 ed at a meeting of the creditors so to be appointed as afore-
 9 said, for the choice of assignees, if such creditors, entitled to
 10 vote as aforesaid, or the major part, in value, of them, shall
 11 think fit ; and such assignee or assignees as shall be so remov-
 12 ed, shall deliver up all the estate and effects of such bankrupt,
 13 which shall have come to his or their hands or possession, un-
 14 to such other assignee or assignees as shall be chosen by the
 15 creditors as aforesaid ; and all such estate and effects shall be,
 16 to all intents and purposes, as effectually and legally vested

17 in such new assignee or assignees, as if the first assignment
 18 had been made to him or them by the said commissioners; and
 19 if such first assignee or assignees shall refuse or neglect for
 20 the space of ten days next after notice, in writing, from such
 21 new assignee or assignees of their appointment as aforesaid,
 22 to deliver over as aforesaid, all the estate and effects as afore-
 23 said, every such assignee or assignees, shall, respectively, for-
 24 feit a sum not exceeding five thousand dollars for the use of
 25 the creditors, and shall, moreover, be liable for the property so
 26 detained.

1 SEC. 9. *And be it further enacted,* That at any time previous
 2 to the closing of the accounts of the said assignee or assignees,
 3 so chosen as aforesaid, it shall be lawful for such creditors of
 4 the bankrupt, as are hereby authorized to vote in the choice of
 5 assignees, or the major part of them, in value, at a regular meet-
 6 ing of the said creditors, to be called for that purpose ¹⁸³³ by the
 7 said commissioners, or by one fourth, in value, of such creditors,
 8 to remove all or any of the assignees chosen as aforesaid, and
 9 to choose one or more in his or their place and stead; and
 10 such assignee or assignees as shall be so removed, shall deliver
 11 up all the estate and effects of such bankrupt which shall have
 12 come into his or their hands or possession, unto such new as-
 13 signee or assignees as shall be chosen by the creditors at such
 14 meeting; and all such estate and effects shall be, to all intents
 15 and purposes, as effectually and legally vested in such new as-

16 signee or assignees, as if the first assignment had been made to
17 him or them by the said commissioners ; and if such former as-
18 signee or assignees shall refuse or neglect, for the space of ten
19 days next after notice, in writing, from such new assignee or
20 assignees, of their appointment, as aforesaid, to deliver over,
21 as aforesaid, all the estate and effects aforesaid, every such
22 former assignee or assignees, shall, respectively, forfeit a sum
23 not exceeding five thousand dollars, for the use of the credi-
24 tors, and shall, moreover, be liable for the property so detained.
25 And in case any assignee or assignees shall die before the
26 closing of the accounts of the bankruptcy, the whole remaining
27 interest, property, trusts, and rights under the assignment
28 shall vest in the surviving assignee or assignees, if any there
29 be. And upon the death of any assignee, the creditors as
30 aforesaid, may choose one or more assignee in his place and
31 stead, in like manner as aforesaid ; and the new assignee or
32 assignees, so chosen, shall have the like powers, authorities,
33 rights, and interests vested in them, as in the case of removal
34 aforesaid. And the executors, administrators, or legal repre-
35 sentatives of such deceased assignee, shall forthwith deliver
36 over, after notice, in writing, of such new appointment, and
37 demand made, by such new assignee or assignees, all the estate
38 and effects of the bankrupt, in their hands or possession, and
39 on failure to deliver over, as aforesaid, on notice and demand,
40 shall be liable for the property so detained.

1 SEC. 10. *And be it further enacted,* That whenever a new as-
 2 signee or assignees shall be chosen as aforesaid, no suit at law
 3 or in equity shall be thereby abated ; but it shall and may be
 4 lawful for the court in which any suit may depend, upon the
 5 suggestion of a removal of a former assignee or assignees, and
 6 of the appointment of a new assignee or assignees, to allow the
 7 name of such new assignee or assignees, to be substituted in place
 8 of the name or names of the former assignee or assignees,
 9 and thereupon the suit shall be prosecuted in the name or
 10 names of the new assignee or assignees, in the same manner as
 11 if he or they had originally commenced the suit in his or their
 12 own names. And no suit pending in law or in equity, where-
 13 in the bankrupt is a party, shall be abated by reason of his
 14 bankruptcy, but such suit may be prosecuted, pursued, and
 15 defended in his name, for the benefit of the assignees, or their
 16 own names may, at their discretion, be substituted for his
 17 name, and in like manner the suit be prosecuted, pursued, and
 18 defended, until final judgment, decree, and execution.

1 SEC. 11. *And be it further enacted,* That the assignment
 2 or assignments of the commissioners of the bankrupt's estate
 3 and effects as aforesaid, made as aforesaid, shall be good at
 4 law or in equity against the bankrupt, and all persons claiming
 5 by, from, or under such bankrupt, by any act done at the

6 time of his committing, or after he shall have committed, the
 7 act of bankruptcy, upon which the commission issued: *Pro-*
 8 *vided always*, That all conveyances by, all payments by and
 9 to, and all contracts and other dealings and transactions by
 10 and with any bankrupt, *bona fide* made and entered into before
 11 the date of such commission, shall, notwithstanding any prior
 12 act of bankruptcy committed by such bankrupt, be valid:
 13 *Provided*, The person so dealing with such bankrupt, had
 14 not, at the time of such conveyance, payment, dealing, or
 15 transaction, any knowledge, information, or notice of any prior
 16 act of bankruptcy having been committed by such bankrupt,
 17 or that he was insolvent or had stopped payment.

1 SEC. 12. *And be it further enacted*, That the said commis-
 2 sioners shall have power, by deed or deeds, under their hands
 3 and seals, to assign and convey to the assignee or assignees,
 4 to be appointed or chosen as aforesaid, any lands, tenements,
 5 or hereditaments, which such bankrupt shall be seised of, or
 6 entitled to, in fee tail, at law, or in equity, in possession, re-
 7 mainder, or reversion, for the benefit of the creditors; and all
 8 such deeds, being duly executed and recorded according to the
 9 laws of the State within which such lands, tenements, or he-
 10 reditaments, may be situate, shall be good and effectual
 11 against all persons whom the said bankrupt, by common re-

12 covery, or other means, might or could bar, of any estate,
 13 right, title, or possibility of or in the said lands, tenements.
 14 or hereditaments.

1 SEC. 13. *And be it further enacted,* That if any bankrupt
 2 shall have conveyed or assured any lands, goods, or estate,
 3 unto any person, upon condition or power of redemption, by
 4 payment of money or otherwise, the commissioners shall have
 5 power to assign for the use aforesaid, all the right, title, and
 6 interest, of said bankrupt, in and to such lands, goods, or es-
 7 tate, and in and to such condition or power of redemption;
 8 and such assignment shall vest the same right, title, interest,
 9 powers, and all authorities, in, to, and over, the same lands, goods,
 10 and estate, as the bankrupt had, or could have, to all intents
 11 and purposes whatsoever; and upon tender of the money, or
 12 other performance, according to the nature of such condition,
 13 the assignee or assignees shall have the same rights, powers,
 14 interests, and authorities, and remedies, as the bankrupt him-
 15 self might or could have, "for the possession, recovery, sale,
 16 or disposal of the same."

1 SEC. 14. *And be it further enacted,* That the commissioners
 2 aforesaid, shall have power to assign, for the use aforesaid, all
 3 the debts due to such bankrupt, or to any other person, for
 4 his or her use or benefit; which assignment shall vest the pro-

5 party and right thereof in the assignee or assignees of such
6 bankrupt, as fully as if the bond, judgment, contract, or claim,
7 had originally belonged or been made to the said assignees;
8 and after the said assignment, neither the said bankrupt, nor
9 any person acting as trustee for him or her, shall have power
10 to recover or discharge the same, nor shall the same be at-
11 tached as the debt of the said bankrupt; but the assignee or
12 assignees aforesaid, shall have such remedy to recover the
13 same, in his or their own name or names, as such bankrupt
14 might or could have had, if no commission of bankruptcy had
15 issued. And when any action in the name of such bankrupt
16 shall have been commenced, and shall be pending for the recove-
17 ry of any estate real or personal of such bankrupt, which shall
18 be assigned, or shall or might become vested in the assignee
19 or assignees of such bankrupt as aforesaid, then such assignee
20 or assignees may claim to be, and shall be thereupon admitted
21 to prosecute such action in his or their name, for the use and
22 benefit of the creditors of such bankrupt; and the same judg-
23 ment shall be rendered in such action, and all attachments or
24 other security taken therein, shall be in like manner holden and
25 liable, as if the said action had been originally commenced in
26 the name of such assignee or assignees, after the original
27 plaintiff therein had become a bankrupt as aforesaid.

1 SEC. 15. *And be it further enacted,* That if complaint shall be
2 made, or information given, to the commissioners, or if they
3 shall have good reason to believe or suspect that any of the
4 property, goods, chattels, or debts, of the bankrupt, are in the
5 possession of any other person, or that any person is indebted
6 to, or for the use of the bankrupt, then the said commission-
7 ers shall have power to summon, or cause to be summoned, by
8 their attorney, or other person duly authorized by them, all
9 such persons before them, or the judge of the district where
10 such person shall reside, or usually resided, or before any
11 judge of the supreme court of the United States, allotted to the
12 circuit court of such district, by such process, or other means,
13 as they shall think convenient, and upon their appearance, to
14 examine them by parole or by interrogatories, in writing, on
15 oath, or affirmation; which oath or affirmation they are here-
16 by empowered to administer, respecting the knowledge of all
17 such property, goods, chattels, and debts. And if such per-
18 son shall refuse to be sworn or affirmed, and to make answer
19 to such questions or interrogatories as shall be administered,
20 and to subscribe the said answers, or upon examination shall
21 not declare the whole truth, touching the subject matter of
22 such examination, then it shall be lawful for the commission-
23 ers, or judge, to commit such person to prison, there to be de-
24 tained until they shall submit themselves to be examined in
25 manner aforesaid, and they shall, moreover, forfeit double the

26 value of all the property, goods, chattels, and debts, by them
 27 concealed, for the use of the creditors.

1 SEC. 16. *And be it further enacted*, That if any of the afore-
 2 said persons shall, after legal summons to appear before the
 3 commissioners, or judge, to be examined, refuse to attend, or
 4 shall not attend at the time appointed, having no such impedi-
 5 ment as shall be allowed of by the commissioners or judge, it
 6 shall be lawful for the said commissioners, or judge, to issue
 7 their warrant to such person or persons as by them shall be
 8 thought proper, to apprehend such persons as shall refuse to
 9 appear, and to bring them before the commissioners, or judge,
 10 to be examined, and upon their refusing to come, to commit
 11 them to prison, until they shall submit themselves to be exam-
 12 ined, according to the directions of this act: *Provided*, That
 13 such witnesses as shall be so sent for, shall be allowed such
 14 compensation as the commissioners, or judge, shall think fit,
 15 to be ~~rateably~~ borne by the creditors. And if any person other
 16 than the ~~bankrupt~~, either by subornation of others, or by his or
 17 her own act, shall willfully or corruptly commit perjury on such
 18 examination, to be taken before the commissioners, or judge,
 19 as aforesaid, the party so offending, and all persons who shall
 20 procure any person to commit such perjury, shall, on convic-
 21 tion thereof, be fined, not exceeding four thousand dollars, and
 22 imprisoned, not exceeding two years; and moreover shall, in

23 either case, be rendered incapable of being a witness in any
24 court of record.

1 SEC. 17. *And be it further enacted*, That if any person or
2 persons shall fraudulently or collusively claim any debts, or
3 claim or detain any real or personal estate of the bankrupt,
4 every such person shall forfeit double the value thereof, to and
5 for the use of the creditors.

1 SEC. 18. *And be it further enacted*, That if any person, prior
2 to his or her becoming a bankrupt, shall convey to any of his
3 or her children, or other persons, any lands or goods, or trans-
4 fer his or her debts or demands into other person's names, with
5 intent to defraud his or her creditors, the commissioners shall
6 have power to assign the same in as effectual a manner as if the
7 bankrupt had been actually seized or possessed thereof.

1 SEC. 19. *And be it further enacted*, That if any person or
2 persons, who shall become bankrupt within the intent and mean-
3 ing of this act, and against whom a commission of bankruptcy
4 shall be duly issued, upon which commission such person or
5 persons shall be declared bankrupt, shall not, within forty-two
6 days after notice thereof, in writing, to be left at the usual place
7 of abode of such person or persons, or personal notice in case
8 such person or persons be then in prison, and notice given in
9 some gazette, that such commission hath been issued, and of
10 the time and place of meeting of the commissioners, surrender

11 him or herself to the said commissioners, and sign and sub-
 12 scribe such surrender, and submit to be examined from time
 13 to time, upon oath or solemn affirmation, by and before such
 14 commissioners, and in all things conform to the provisions of
 15 this act, and also upon such his or her examination, fully and
 16 truly disclose and discover all his or her effects and estate,
 17 real and personal, and how, and in what manner, to whom,
 18 and upon what consideration, and at what time or times, he
 19 or she hath disposed of, assigned, or transferred, any of his
 20 or her goods, wares, or merchandise, moneys, or other effects
 21 and estate, and of all books, papers, and writings, relating
 22 thereunto, of which he or she was possessed, or in or to
 23 which he or she was anywise interested or entitled, or which
 24 any person or persons shall then have, or shall have had, in
 25 trust for him or her, or for his or her use, at any time before
 26 or after the issuing of the said commission, or whereby such
 27 bankrupt, or his or her family, then hath, or may have or ex-
 28 pect any profit, possibility of profit, benefit, or advantage
 29 whatsoever, except only such part of his or her estate and ef-
 30 fects, as shall have been really and *bona fide* before sold and
 31 disposed of, in the way of his or her trade and dealings, and
 32 except such sums of money as shall have been laid out in the
 33 ordinary expenses of his or her family; and, also, upon such
 34 examination, execute, in due form of law, such conveyance,
 35 assurance, and assignment, of his or her estate, whatsoever

36 and wheresoever, as shall be devised and directed by the com-
37 missioners, to vest the same in the assignees, their heirs, exe-
38 cutors, administrators, and assigns for ever, in trust, for the
39 use of all and every the creditors of such bankrupt, who shall
40 come in and prove their debts under the commission, and de-
41 liver up unto the commissioners, all such part of his or her
42 the said bankrupt's goods, wares, merchandises, money, ef-
43 fects, and estate ; and all books, papers, and writings relating
44 thereunto, as, at the time of such examination, shall be in his
45 or her possession, custody, or power, his or her necessary
46 wearing apparel, and the necessary wearing apparel of the
47 wife and children, and necessary beds and bedding of such
48 bankrupt and his family, only excepted, then he or she, the
49 said bankrupt, upon the conviction of any wilful default or
50 omission in any of the matters or things aforesaid, shall be ad-
51 judged a fraudulent bankrupt, and shall suffer imprisonment,
52 for a term not less than twelve months, nor exceeding ten
53 years, and shall not, at any time after, be entitled to the bene-
54 fits of this act: *Provided always*, That in case any bankrupt
55 shall be in prison or custody, at the time of issuing such com-
56 mission, and is willing to surrender and submit to be examin-
57 ed, according to the directions of this act, and can be brought
58 before the said commissioners and creditors for that purpose,
59 the expense thereof shall be paid out of the said bankrupt's
60 effects ; and in case such bankrupt is in execution, or cannot

61 be brought before the commissioners, that then the said com-
 62 missioners, or some one of them, shall, from time to time, at-
 63 tend the said bankrupt in prison or custody, and take his or
 64 her discovery, as in other cases, and the assignees, or one of
 65 them, or some person appointed by them, shall attend such
 66 bankrupt in prison or custody, and produce his or her books,
 67 papers, and writings, in order to enable him or her to prepare
 68 his or her discovery; a copy whereof the said assignees shall
 69 apply for, and the said bankrupt shall deliver to them or their
 70 order, within a reasonable time after the same shall have been
 71 required,

1 **SEC. 20.** *And be it further enacted,* That the said commission-
 2 ers shall appoint, within the said forty-two days, so limited as
 3 aforesaid, for the bankrupt to surrender and conform as afore-
 4 said, not less than three several meetings for the purposes
 5 aforesaid, the third of which meetings shall be on the last of
 6 the said forty-two days: *Provided always,* That either of the
 7 judges having authority to issue the commission, shall have
 8 power to enlarge the time so limited as aforesaid, for the pur-
 9 poses aforesaid, as he shall think fit, not exceeding fifty days,
 10 to be computed from the end of the said forty-two days, so as
 11 such order for enlarging the time, be made at least six days
 12 before the expiration of said term.

1 **SEC. 21.** *And be it further enacted,* That it shall be lawful

2 for the commissioners, or any other person or officers, by them
 3 to be appointed, by their warrant, under their hands and seals,
 4 to break open, in the day time, the houses, chambers, shops,
 5 warehouses, doors, trunks, or chests, of the bankrupt, where
 6 any of his or her goods or estate, deeds, books of account, or
 7 writings, shall be, and to take possession of the goods, money,
 8 and other estate, deeds, books of account, or writings, of such
 9 bankrupt.

1 SEC. 22. *And be it further enacted,* That if the bankrupt
 2 shall refuse to be examined, or to answer fully, or to subscribe
 3 his or her examination as aforesaid, it shall be lawful for the
 4 commissioners to commit the offender to close imprisonment,
 5 until he or she shall conform him or herself: and if the said
 6 bankrupt shall submit to be examined, and upon his or her ex-
 7 amination, it shall appear that he or she hath committed wilful
 8 or corrupt perjury, he or she may be indicted therefor, and be-
 9 ing thereof convicted, shall suffer imprisonment for a term not
 10 less than two years, nor exceeding ten years.

1 SEC. 23. *And be it further enacted,* That every bankrupt
 2 having surrendered, shall, at all seasonable times before the
 3 expiration of the said forty-two days, as aforesaid, or of such
 4 further time as shall be allowed to finish his or her examination,
 5 be at liberty to inspect his or her books and writings, in the
 6 presence of some person to be appointed by the commissioners,

7 and to bring with him or her for his or her assistance, such
 8 persons as he or she shall think fit, not exceeding two at one
 9 time, and to make extracts and copies to enable him or her to
 10 make a full discovery of his or her effects ; and the said bank-
 11 rupt shall be free from arrests in coming to surrender, and af-
 12 ter having surrendered, to the said commissioners, for the said
 13 forty-two days, or such further time as shall be allowed for the
 14 finishing his or her examination ; and in case such bankrupt
 15 shall be arrested for debt, or taken on any escape, warrant, or
 16 execution, coming to surrender or after his surrender, within
 17 the time before mentioned, then on producing such summons
 18 or notice under the hand of the commissioners, and giving the
 19 officer a copy thereof, he or she shall be discharged ; and in
 20 case any officer shall afterwards detain such bankrupt, such
 21 officer shall forfeit to such bankrupt, for his or her own use, ten
 22 dollars for every day he shall detain the bankrupt.

1 *SEC. 24. And be it further enacted,* That every person who
 2 shall knowingly or wilfully receive or keep concealed, any bank-
 3 rupt so as aforesaid summoned to appear, or who shall assist
 4 such bankrupt in concealing him or herself, or in absconding,
 5 shall suffer such imprisonment, not exceeding twelve months, or
 6 pay such fine to the United States, not exceeding one thousand
 7 dollars, as, upon conviction thereof, shall be adjudged.

1 *SEC. 25. And be it further enacted,* That the said commis-

2 sioners shall have power to examine, upon oath or affirmation,
 3 the wife of any person lawfully declared a bankrupt, for the
 4 discovery of such part of his estate as may be concealed or
 5 disposed of by such wife, or by any other person: and the
 6 said wife shall incur such penalties for not appearing before
 7 the said commissioners, or refusing to be sworn or affirmed.
 8 or examined, and to subscribe her examination, or for not dis-
 9 closing the truth, as by this act is provided against any other
 10 person in like cases.

1 SEC. 26. *And be it further enacted,* That in case any person
 2 shall be committed by the commissioners for refusing to answer,
 3 or for not fully answering any question, or for any other cause,
 4 the commissioners shall, in their warrant specify such question
 5 or other cause of commitment.

1 SEC. 27. *And be it further enacted,* That if, after the bank-
 2 rupt shall have finished his or her final examination, any other
 3 person or persons shall voluntarily make discovery of any part
 4 of such bankrupt's estate, before unknown to the commission-
 5 ers, such person or persons shall be entitled to five per cent.
 6 out of the effects so discovered, and such further reward as the
 7 commissioners shall think proper; and any trustee having no-
 8 tice of the bankruptcy, wilfully concealing the estate of any
 9 bankrupt, for the space of ten days after the bankrupt shall
 10 have finished his final examination, as aforesaid, shall forfeit

11 double the value of the estate so concealed, for the benefit of
12 the creditors.

1 *SEC. 28. And be it further enacted,* That if any person shall
2 become bankrupt, and at such time, by consent of the owner,
3 have in his or her possession and disposition, any goods where-
4 of he or she shall be reputed owner, and take upon him or
5 herself, the sale, alteration, or disposition thereof, as owner,
6 the commissioners shall have power to assign the same, for
7 the benefit of the creditors, as fully as any other part of the
8 estate of the bankrupt.

1 *SEC. 29. And be it further enacted,* That if any bankrupt,
2 after the issuing any commission against him or her, pay to
3 the person who sued out the same, or give or deliver to such
4 person, goods, or any other satisfaction or security for his or
5 her debt, whereby such person shall privately have and re-
6 ceive a greater proportion of his or her debt than the other
7 creditors, such preference shall be a new act of bankruptcy,
8 and on good proof thereof, such commission shall and may
9 be superseded, and it shall and may be lawful for either of
10 the judges having authority to grant the commission as afore-
11 said, to award any creditor petitioning, another commission,
12 and such person, so taking such undue satisfaction as afore-
13 said, shall forfeit and lose, as well his or her whole debts, as
14 the whole he or she shall have taken and received, and

15 shall pay back, or deliver up the same, or the full value there-
 16 of, to the assignee or assignees who shall be appointed or
 17 chosen under such commission, in manner aforesaid, in trust
 18 for, and to be divided among, the other creditors of the said
 19 bankrupt, in proportion to their respective debts.

1 SEC. 30. *And be it further enacted,* That every person who
 2 shall be chosen assignee of the estate and effects of a bank-
 3 rupt, shall, at some time after the expiration of four months,
 4 and within twelve months from the time of issuing the com-
 5 mission, cause at least thirty day's public notice to be given,
 6 of the time and place the commissioners and assignees intend
 7 to meet, to make a dividend or distribution of the bankrupt's
 8 estate and effects ; at which time the creditors who have not
 9 before proved their debts, shall be at liberty to prove the
 10 same ; and upon every such meeting, the assignee or assignees
 11 shall produce to the commissioners and creditors then present,
 12 fair and just accounts of all his or their receipts and payments
 13 touching the bankrupt's estate and effects, and of what shall
 14 remain outstanding, and the particulars thereof, and shall, if
 15 the creditors then present, or a major part of them, require
 16 the same, be examined upon oath or solemn affirmation, be-
 17 fore the same commissioners, touching the truth of such ac-
 18 counts ; and in such accounts, the said assignee or assignees
 19 shall be allowed and retain all such sum and sums of money,

20 as they shall have paid or expended in suing out and prose-
21 cuting the commission, and all other just allowances on ac-
22 count of, or by reason or means of, their being assignee or as-
23 signees ; and the said commissioners shall order such part of
24 the nett produce of the said bankrupt's estate, as by such ac-
25 counts or otherwise shall appear to be in the hands of the
26 said assignees, as they shall think fit, to be forthwith divided
27 amongst such of the bankrupt's creditors, as have duly proved
28 their debts under such commission, in proportion to their se-
29 veral and respective debts ; and the commissioners shall make
30 such their order for a dividend, in writing, under their hands,
31 and shall cause one part of such order to be filed amongst the
32 proceedings under the said commission, and shall deliver un-
33 to each of the assignees, under such commission, a duplicate
34 of such order, which order of distribution shall contain an ac-
35 count of the time and place of making such order, and the
36 sum total or quantum of all the debts proved under the com-
37 mission, and the sum total of the money remaining in the
38 hands of the assignee or assignees to be divided, what per-
39 centage in particular there is ordered to be paid to every cre-
40 ditor, of his debt ; and the said assignee or assignees, in pur-
41 suance of such order, and without any deed or deeds of dis-
42 tribution, to be made for the purpose, shall forthwith make
43 such dividend and distribution accordingly, and shall take re-
44 ceipts, in a book to be kept for the purpose, from each credi-

45 tor, for the part or share of such dividend or distribution, which
 46 he or they shall make, and pay to each creditor respectively;
 47 and such order and receipt shall be a full and effectual dis-
 48 charge to such assignee for so much as he shall fairly pay, pur-
 49 suant to such order as aforesaid.

1 SEC. 31. *And be it further enacted,* That within eighteen
 2 months next after the issuing of the commission, the assignee
 3 or assignees shall make a second dividend of the bankrupt's
 4 estate and effects, in case the same were not wholly divided
 5 upon the first dividend, and shall cause due public notice to be
 6 given of the time and place the said commissioners intend to
 7 meet, to make a second distribution of the bankrupt's estate
 8 and effects, and for the creditors who shall not before have prov-
 9 ed their debts, to come in and prove the same; and at such
 10 meeting, the said assignees shall produce, on oath or solemn
 11 affirmation as aforesaid, their accounts of the bankrupt's estate
 12 and effects, and what, upon the balance thereof, shall appear
 13 to be in their hands, shall, by like order of the commissioners,
 14 be forthwith divided amongst such of the bankrupt's creditors
 15 as shall have made due proof of their debts, in proportion to
 16 their several and respective debts; which second dividend
 17 shall be final, unless any suit at law, or equity, be depending,
 18 or any part of the estate standing out, that could not have been
 19 disposed of, or that the major part of the creditors shall not

20 have agreed to be sold or disposed of, or unless some other or
 21 future estate or effects of the bankrupt shall afterwards come
 22 to, or rest in the said assignees, in which cases the said as-
 23 signees shall, as soon as may be, convert such future or other
 24 estate and effects into money, and shall, within two months af-
 25 ter the same be converted into money, by like order of the com-
 26 missioners, divide the same among such bankrupt's creditors as
 27 shall have made due proof of their debt under such com-
 28 mission.

1 *SEC. 32. And be it further enacted,* That in the distribution
 2 of the bankrupt's effects, there shall be paid to every of the
 3 creditors a portion-rate, according to the amount of their re-
 4 spective debts, so that every creditor having security for his
 5 debt by judgment, statute, recognizance, or specialty, or hav-
 6 ing an attachment under any of the laws of the individual
 7 States, or of the United States, on the estate of such bankrupt,
 8 (provided there be no execution issued and levied, before the
 9 time he or she became bankrupt,) shall not be relieved upon
 10 any such judgment, statute, recognizance, specialty, or attach-
 11 ment, for more than a rateable part of his debt, with the other
 12 creditors of the bankrupt.

1 *SEC. 33. And be it further enacted,* That the assignees shall
 2 keep one or more distinct book or books of account, wherein he
 3 or they shall duly enter all sums of money or effects, which he

4 or they shall have received, or got into his or their possession,
5 of the said bankrupt's estate, to which books of account, every
6 creditor who shall have proved his or her debt, shall, at all rea-
7 sonable times, have free resort, and inspect the same as often
8 as he or she shall think fit.

1 SEC. 34. *And be it further enacted,* That every bankrupt, not
2 being in prison or custody, shall, at all times after his surren-
3 der, be bound to attend the assignees, upon every reasonable
4 notice, in writing, for that purpose, given or left at the usual
5 place of his or her abode, in order to assist in making out
6 the accounts of the said bankrupt's estate and effects, and to
7 attend any court of record, to be examined touching the same,
8 or such other business as the said assignees shall judge neces-
9 sary, for which he shall receive three dollars per day.

1 SEC. 35. *And be it further enacted,* That all and every per-
2 son and persons who shall become bankrupt as aforesaid, and
3 who shall, within the time limited by this act, surrender him-
4 or herself to the commissioners, and in all things conform, as in
5 and by this act is directed, shall be allowed five per cent. upon
6 the nett produce of all the estate that shall be recovered in and
7 received, which shall be paid unto him or her by the assignee
8 or assignees, in case the nett produce of such estate, after such
9 allowance made, shall be sufficient to pay the creditors of said
10 bankrupt, who shall have proved their debts under such com-

11 mission, the amount of fifty per cent. on their said debts re-
 12 spectively, and so as the said five per cent. shall not exceed, in
 13 the whole, the sum of five hundred dollars. And in case the
 14 nett produce of the said estate shall, over and above the allow-
 15 ance hereafter mentioned, be sufficient to pay the said creditors
 16 seventy-five per cent. on the amount of their said debts respect-
 17 ively, that then the said bankrupt shall be allowed ten per cent.
 18 on the amount of such nett produce, to be paid as aforesaid, so
 19 as such ten per cent. shall not, in the whole, exceed the sum of
 20 eight hundred dollars : *Provided always*, That if the nett pro-
 21 ceeds of the bankrupt's estate so to be discovered, recovered,
 22 and received, shall not amount to so much as will pay all and
 23 every of the creditors of the said bankrupt, who shall have
 24 proved their debts under the said commission, the amount of
 25 fifty per cent. on their debts respectively, after all charges
 26 first deducted, that then and in such case, the bankrupt shall
 27 not be allowed five per centum on such estate as shall be re-
 28 covered, but shall have, and be paid by the assignees so much
 29 money, as the commissioners shall think fit to allow, not more
 30 than three hundred dollars, nor exceeding three per centum
 31 on the nett proceeds of such bankrupt's estate.

1 SEC. 36. *And be it further enacted*, That every person against
 2 whom a commission of bankruptcy shall issue, and who shall
 3 be duly found a bankrupt under the same, shall, upon obtain-

4 ing his or her certificate, as in this act provided, be discharged
5 from all debts, covenants, contracts, and other engagements and
6 demands whatsoever, by this act made proveable under such
7 commission. And wherever the said bankrupt may have drawn,
8 made, entered into, or sealed and executed, any bill, note, en-
9 dorsement, engagement, contract, or obligation, or covenant
10 other than covenants on the sale of real estate running with the
11 land, by which the liability of the said bankrupt may depend
12 upon a contingency subsequent to his or her said discharge,
13 it shall and may be lawful for the person or persons to whom
14 the said bankrupt may become liable, to give notice thereof to
15 the assignees of such bankrupt, at any time before a distribution
16 of the estate of the said bankrupt. And such person or persons
17 shall also present to the said assignees, on oath, a statement or
18 account of his, her, or their contingent claim or demand, and
19 what the same will be, in case the said bankrupt shall eventual-
20 ly become liable therefor; and upon such claim being made, it
21 shall be the duty of the assignees to retain, in their hands, so
22 much of the said estate as will be sufficient to pay to the said
23 claimant, in respect to his contingent demand, or claim, a pro-
24 portion of the said bankrupt's estate, equal to what the other
25 creditors may have received, or may be entitled to receive, out of
26 the said estate. And in case the said bankrupt would, if he had
27 not been discharged, become liable to pay the said contingent
28 debtor's claim, then the said moneys so retained by the said as-

29 signees, shall be paid to the person or persons to whom he or
30 she would so have been liable, otherwise they shall be distr-
31 buted among the creditors of the said bankrupt, as if no such
32 claim had been made. And the assignees shall not retain the
33 money in their hands to meet such contingent claims, unless
34 such claim be made absolute by the time that a final distribu-
35 tion of the bankrupt's estate, according to this act shall be de-
36 clared; and in case such claim or demand shall become abso-
37 lute before such final distribution, the certificate of such bank-
38 rupt shall be a complete discharge of and from the same; other-
39 wise the same shall not be discharged by such certificate. And
40 in case any such bankrupt shall afterwards be arrested, prose-
41 cuted, or impleaded, for or on account of any of the said claims
42 or debts aforesaid, such bankrupt may appear without bail, and
43 may plead the general issue, and give this act and the special
44 matter in evidence; or at his or her election, may plead in ge-
45 neral that the cause of such action or suit did accrue before such
46 time as he or she became a bankrupt, and may give this act
47 and the special matter in evidence. And the certificate of such
48 bankrupt's conforming, and the allowance thereof, according
49 to the directions of this act, shall be, and shall be allowed to be
50 sufficient evidence, *prima facie*, of the party's being a bankrupt
51 within the meaning of this act, and of the commission and other
52 proceedings, precedent to the obtaining such certificate, and a
53 verdict shall thereupon pass for the defendant, unless the plain-

54 tiff in such action, can prove the said certificate was obtained
 55 unfairly and by fraud, or unless he can make appear any fraud-
 56 ulent concealment of estate or effects, by such bankrupt, to the
 57 value of one hundred dollars: *Provided*, That no such dis-
 58 charge of a bankrupt, shall release or discharge any person
 59 who was a partner with such bankrupt, at the time he or she
 60 became bankrupt, or who was then jointly held or bound with
 61 such bankrupt, for the same debt or debts from which such
 62 bankrupt was discharged as aforesaid.

1 SEC. 37. *Provided also, and be it further enacted*, That no
 2 person becoming a bankrupt, according to the intent and pro-
 3 visions of this act, shall be entitled to any of the benefits of
 4 the act, unless he shall obtain a certificate of discharge from
 5 one of the judges having authority to issue the commission
 6 which either of said judges is hereby authorized to allow.—
 7 Nor shall such certificate of discharge be allowed by any
 8 judge, unless the commissioners shall certify to him under
 9 their hands, that such bankrupt hath made a full discovery of
 10 his or her estate and effects, and in all things conformed him
 11 or herself to the directions of this act, and that there doth
 12 not appear to them any reason to doubt of the truth of such
 13 discovery, or that the same was not a full discovery of the
 14 said bankrupt's estate and effects; or unless the said judge
 15 should be of opinion that the said certificate was unreasona-

16 bly denied by the commissioners ; nor unless two thirds, in
17 number and in value, of the creditors of the bankrupt, who
18 shall be creditors for not less than fifty dollars respectively,
19 and who shall have duly proved their debts under the said
20 commission, shall sign such certificate, or in case of a denial
21 by the commissioners, a certificate of like purport to the judge,
22 and testify their consent to the allowance of a certificate of
23 discharge, in pursuance of this act ; which signing and con-
24 sent shall be also certified by the commissioners, or acknow-
25 ledged by the creditors respectively before the said judge ;
26 but the said commissioners shall not certify the same till they
27 have proof by affidavit or affirmation, in writing, of such cre-
28 ditors, or of the persons respectively authorized for that pur-
29 pose, signing the said certificate ; which affidavit or affirma-
30 tion, together with the letter or power of attorney to sign,
31 shall, in all such cases, be laid before the said judge in order
32 for the allowing the certificate of discharge ; nor shall such
33 certificate of discharge be allowed, unless the bankrupt shall
34 make oath or affirmation in writing, before the said judge, that
35 he hath made a full and fair discovery of all his estate and
36 effects, and that the certificate of the commissioners, (if any
37 there be,) and the consent of the creditors, as aforesaid, were
38 obtained fairly and without fraud, and that he doth not know
39 of any reason why he should not have the benefit of this act ;
40 and any of the creditors of the said bankrupt are allowed to be

41 heard, if they shall think fit, before the respective persons
42 aforesaid, against the making or allowing of such certificates,
43 by the commissioners or judge. And if the allowance of
44 such certificate of discharge shall be contested, it shall be law-
45 ful for the said judge peremptorily to decide as to the allow-
46 ance thereof, or in his discretion to adjourn the question into
47 the circuit court of the United States, for the district, and
48 thereupon the said circuit court shall have full authority to
49 hear and decide the same, and to summon before it all neces-
50 sary and proper parties and witnesses, and compel their at-
51 tendance, and to proceed therein in a summary manner; and
52 its decree shall be final and conclusive between the parties.
53 And such certificate of discharge, when allowed, shall sum-
54 marily state, that the party is a bankrupt within this act, and
55 has duly conformed thereto, and is fully entitled to all the be-
56 nefits thereof. And such certificate shall be filed among the
57 proceedings of bankruptcy, in the office of the clerk of the
58 district court, and a copy thereof attested by the clerk of the
59 district court, shall be good evidence in all judicial and other
60 proceedings.

1 *SEC. 38. And be it further enacted,* That if any creditor, or
2 pretended creditor, or any bankrupt, shall exhibit to the com-
3 missioners any fictitious or false debt, or demand, with intent
4 to defraud the real creditors of such bankrupt, and the bank-

5 rupt shall refuse to make discovery thereof, and suffer the same
 6 creditors to be imposed upon, he shall lose all title to the al-
 7 lowance upon the amount of his effects, and to a certificate of
 8 discharge as aforesaid; nor shall he be entitled to the said al-
 9 lowance or certificate, if he has lost, at any one time, fifty dol-
 10 lars, or in the whole, three hundred dollars, after the passing
 11 of this act, and within twelve months before he became a
 12 bankrupt, by any manner of gaming or wagering whatever.

1 SEC. 39. *And be it further enacted,* That if any bankrupt,
 2 who shall have obtained his certificate, shall be taken in exe-
 3 cution, or detained in prison, on account of any debts owing
 4 before he became a bankrupt, by reason that judgment was ob-
 5 tained before such certificate was allowed, it shall be lawful for
 6 any of the judges of the court wherein judgment was so obtained,
 7 or for any court, judge, or justice, of any State, or of the Unit-
 8 ed States, within the district in which such bankrupt shall be
 9 detained, having powers to award or allow the writ of habeas
 10 corpus, on such bankrupt producing his certificate so as
 11 aforesaid allowed, to order any sheriff or jailor who shall have
 12 such bankrupt in custody, to discharge such bankrupt without
 13 fee or charge, first giving reasonable notice to the plaintiff, or
 14 his attorney, of the motion for such discharge.

1 SEC. 40. *And be it further enacted,* That every person who
 2 shall have *bona fide* given credit to or taken securities, payable

3 at future days, from persons who are or shall become bank-
 4 rupts, not due at the time of such person's becoming bank-
 5 rupt, shall be admitted to prove their debts and contracts, as
 6 if they were payable presently, and shall have a dividend in
 7 proportion to the other creditors, discounting, where no inter-
 8 est is payable, at the rate of so much per centum per annum,
 9 as is equal to the lawful interest of the State where the debt
 10 was payable; and the obligee of any bottomry or respondentia
 11 bond, and the assured in any policy of insurance, shall be ad-
 12 mitted to claim, and after the contingency or loss, to prove
 13 the debt thereon, in like manner as if the same had happened
 14 before issuing the commission; and the bankrupt shall be dis-
 15 charged from such securities, as if such money had been due
 16 and payable before the time of his or her becoming bankrupt;
 17 and such creditors may petition for a commission, or join in
 18 petitioning. And every person with whom the bankrupt shall
 19 have really and *bona fide* contracted any debt before the date
 20 of the suing forth of such commission, which if contracted be-
 21 fore any act of bankruptcy committed, might have been proved
 22 under such commission, shall, notwithstanding any prior act of
 23 bankruptcy, be admitted to prove such debt, and to be a cre-
 24 ditor under such commission, in like, as if no such prior act of
 25 bankruptcy had been committed, provided such creditor had
 26 not, at the time of the debt being contracted, notice of any prior
 27 act of bankruptcy.

1 **SEC. 41.** *And be it further enacted,* That in case any per-
2 son committed by the commissioners' warrant, shall obtain a
3 *habeas corpus*, in order to be discharged, and there shall ap-
4 pear any insufficiency in the form of a warrant, it shall be
5 lawful for the court or judge before whom such party shall be
6 brought by *habeas corpus*, by rule or warrant, to commit such
7 persons to the same prison, there to remain, until he shall con-
8 form as aforesaid, unless it shall be made to appear that he
9 had fully answered all lawful questions put to him by the com-
10 missioners; or in case such person was committed for not sign-
11 ing his examination, unless it shall appear that the party had
12 good reason for refusing to sign the same, or that the commis-
13 sioners had exceeded their authority in making such commit-
14 ment; and in case the jailor, to whom such person shall be com-
15 mitted, shall wilfully or negligently suffer such person to es-
16 cape, or to go without the doors or walls of the prison, such
17 jailor shall, for such offence, being convicted thereof, forfeit a
18 sum not exceeding three thousand dollars, for the use of the
19 creditors.

1 **SEC. 42.** *And be it further enacted,* That the jailor shall, upon
2 the request of any creditor, having proved his debt, and show-
3 ing a certificate thereof under the hands of the commissioners,
4 which the commissioners shall give without fee or reward, pro-
5 duce the person so committed; and in case such jailor shall
6 refuse to show such person to such creditor requesting the same,

7 such person shall be considered as having escaped ; and the
 8 jailor or sheiriff so refusing, shall be liable as for a wilful es-
 9 cape.

1 SEC. 43. *And be it further enacted,* That where it shall ap-
 2 pear to the said commissioners, that there hath been mutual
 3 credit given by the bankrupt and any other person, or mutual
 4 debts between them, at any time before the issuing of the com-
 5 mission, the commissioners, or under their direction, the assignee
 6 or assignees of the estate shall state the account between them,
 7 and one debt may be set off against the other, and what shall
 8 appear to be due on either side on the balance of such account
 9 after such set-off, and no more, shall be claimed or paid on either
 10 side respectively, notwithstanding any prior act of bankruptcy
 11 committed by such bankrupt before the credit was given to or
 12 the debt was contracted by such bankrupt, in like manner as
 13 if no prior act of bankruptcy had been committed, provided
 14 the person claiming the benefit of such set-off had not, at the time
 15 of giving such credit, notice of any prior act of bankruptcy, or
 16 that such bankrupt was insolvent, or had stopped payment.

1 SEC. 44. *And be it further enacted,* That it shall and may be
 2 lawful to and for the assignee or assignees, of any bankrupt's
 3 estate and effects, under the direction of the commissioners, and
 4 by and with the consent of the major part, in value, of such of
 5 the said bankrupt's creditors, as shall have duly proved their

6 debts under the commission, and shall be present at any meet-
 7 ing of the said creditors, to be held in pursuance of due and
 8 public notice for that purpose given, to submit any difference
 9 or dispute for, on account of, or by reason or means of any mat-
 10 ter, cause, or thing whatsoever, relating to such bankrupt, or to
 11 his or her estate or effects, to the final end and determination
 12 of arbitrators to be chosen by the said commissioners, and the
 13 major part in value, of such creditors as shall be present at such
 14 meeting as aforesaid, and the party or parties with whom they
 15 shall have such difference or dispute, and to perform the award
 16 of such arbitrators, or otherwise to compound and agree the
 17 matter in difference and dispute as aforesaid, in such manner as
 18 the said assignee or assignees under the direction and with the
 19 consent aforesaid, shall think fit and can agree ; and the same
 20 shall be binding on the several creditors of the said bankrupt,
 21 and the said assignee or assignees are hereby indemnified for
 22 what they shall fairly do, according to the directions aforesaid.

1 *Sec. 45. And be it further enacted,* That the assignees shall
 2 be, and hereby are, vested with full power to dispose of all
 3 the bankrupt's estate, real and personal, at public auction or
 4 vendue, without being subject to any tax, duty, imposition, or
 5 restriction, any law to the contrary notwithstanding.

1 *Sec. 46. And be it further enacted,* That if after any com-
 2 mission of bankruptcy sued forth, the bankrupt happen to die

3 before the commissioners shall have distributed the effects, or
 4 any part thereof, the commissioners shall, nevertheless, pro-
 5 ceed to execute the commission, as fully as they might have
 6 done if the party were living.

1 SEC. 47. *And be it further enacted,* That where any com-
 2 mission of bankruptcy shall be delivered to the commissioners
 3 therein named, to be executed, it shall and may be lawful for
 4 them, before they take the oath or affirmation of qualification,
 5 to demand and take from the creditor or creditors prosecuting
 6 such commission, a bond, with one good security, if required,
 7 in the penalty of one thousand dollars, conditioned for the
 8 payment of the costs, charges, and expenses, which shall arise
 9 and accrue upon the prosecution of the said commission:—
 10 *Provided always,* That the expenses, so as aforesaid to be se-
 11 cured and paid by the petitioning creditor or creditors, shall
 12 be repaid to him or them by the commissioners or assignees,
 13 out of the first moneys arising from the bankrupt's estate or
 14 effects, if so much be received therefrom.

1 SEC. 48. *And be it further enacted,* That all penalties given
 2 by this act for the benefit of the creditors, shall be recovered
 3 by the assignee or assignees, for the time being, by action of
 4 debt, and the money so recovered, the charges of suit being
 5 deducted, shall be distributed towards payment of the credi-
 6 tors.

1 SEC. 49. *And be it further enacted,* That if any action shall
 2 be brought against any commissioner, or assignee, or other per-
 3 son, having authority under the commission, for any thing
 4 done or performed by force of this act, the defendant may
 5 plead the general issue, and give this act and the special mat-
 6 ter in evidence ; and in case of a non-suit, discontinuance, or
 7 verdict, or judgment for him, he shall recover double costs.
 8 And if such action be brought in any State court, the same
 9 may, at any time before issue joined, be removed into the cir-
 10 cuit court of the United States, in the same manner and un-
 11 der the same regulations, and with the same effects, to all in-
 12 tents and purposes, as suits brought in a State court against an
 13 alien, or against a citizen of a State other than that where the
 14 suit is brought, may now by law be removed.

1 SEC. 50. *And be it further enacted,* That if any estate, real
 2 or personal, shall descend, revert to, or become vested in any
 3 person, after he or she shall be declared a bankrupt, and be-
 4 fore he or she shall obtain a certificate, signed by the judge
 5 as aforesaid, all such estate shall, by virtue of this act, be vest-
 6 ed in the said commissioners, and shall be by them assigned
 7 and conveyed to the assignee or assignees in fee simple, or
 8 otherwise, in like manner as above directed, with the estate
 9 of the said bankrupt, at the time of the bankruptcy, and the
 10 proceeds thereof shall be divided among the creditors.

1 SEC. 51. *And be it further enacted*, That the said commis-
 2 sioners shall, once in every year, carefully file, in the clerk's
 3 office of the district court, all the proceedings had in every
 4 case before them, and which shall have been finished, includ-
 5 ing the commissions, examinations, dividends, entries, and
 6 other determinations of the said commissioners, in which of-
 7 fice the final certificate of the said bankrupt may also be re-
 8 corded; all which proceedings shall remain of record in the
 9 said office, and certified copies thereof shall be admitted as
 10 evidence in all courts, in like manner as the copies of the pro-
 11 ceedings of the said district court are admitted in other cases.

1 SEC. 52. *And be it further enacted*, That it shall and may
 2 be lawful for any creditor of such bankrupt, to attend all or
 3 any of the examinations of said bankrupt, and the allowance of
 4 the final certificate, if he shall think proper, and then and there
 5 to propose interrogatories, to be put by the judge or commis-
 6 sioners to the said bankrupt and others, and also to produce
 7 and examine witnesses and documents before such judge or
 8 commissioners, relative to the subject-matter before them.

1 SEC. 53. *And be it further enacted*, That the commissioners,
 2 before the appointment of assignees, and the assignees, after
 3 such appointment, shall, from time to time, make such allow-
 4 ance out of the bankrupt's estate, until he shall have obtained

5 his final discharge, as in their opinion may be requisite for the
6 necessary support of the said bankrupt and his family.

1 SEC. 54. *And be it further enacted,* That it shall be lawful
2 for the major part, in value, of the creditors, before they pro-
3 ceed to the choice of assignees, to direct in what manner, with
4 whom, and where, the moneys arising by, and to be received
5 from time to time out of the bankrupt's estate, shall be lodged,
6 until the same shall be divided among the creditors, as herein
7 provided; to which direction every such assignee and assign-
8 ees shall conform as often as one hundred dollars shall be
9 received.

1 SEC. 55. *And be it further enacted,* That every matter and
2 thing by this act required to be done by the commissioners of
3 any bankrupt, shall be valid to all intents and purposes, if per-
4 formed by a majority of them.

1 SEC. 56. *And be it further enacted,* That in all cases where
2 the assignees shall prosecute any person for any debt, duty, orde-
3 mand, right, title, or interest due, or belonging to the bankrupt,
4 the commission, or a certified copy thereof, and the assignment
5 of the commissioners of the bankrupt's estate, shall be con-
6 clusive evidence of the issuing the commission, and of the per-
7 son named therein being a trader and bankrupt at the time
8 mentioned therein. And in all actions or prosecutions which

9 shall be brought against any commissioner, assignee, or other
 10 person, having authority under the commission, for any thing
 11 done or performed by force or colour of this act, the proceed-
 12 ings under the commission, or authenticated copies thereof
 13 shall be *prima facie* evidence of the facts therein contained.

1 SEC. 57. *And be it further enacted*, That any creditor of a
 2 person against whom a commission of bankruptcy shall have
 3 been sued forth, and who shall lay his claim before the com-
 4 missioners appointed in pursuance of this act, may, at the same
 5 time, declare his unwillingness to submit the same to the judg-
 6 ment of the said commissioners, and his wish that a jury may
 7 be empaneled to decide thereon; and in like manner the as-
 8 signee or assignees of such bankrupt may object to the consider-
 9 ation of any particular claim by the commissioners, and re-
 10 quire that the same shall be referred to a jury. In either case,
 11 such objection and request shall be entered on the books of
 12 the commissioners, and thereupon an issue shall be made up
 13 between the parties, and a jury shall be empaneled, as in
 14 other cases, to try the same in the circuit court for the district
 15 in which such bankrupt has usually resided. The verdict of
 16 such jury shall be subject to the control of the court, as in suits
 17 originally instituted in the said court, and when rendered, if
 18 not set aside by the court, shall be certified to the commission-
 19 ers, and shall ascertain the amount of any such claim, and

20 such creditor or creditors shall be considered in all respects as
 21 having proved their debts under the commission.

1 SEC. 58. *And be it further enacted*, That the lands and effects
 2 of any person becoming bankrupt, may be sold on such credit,
 3 and on such security, as a major part, in value, of the creditors
 4 may direct: *Provided*, Nothing herein contained shall be al-
 5 lowed so to operate, as to retard the granting the bankrupt's
 6 certificate.

1 SEC. 59. *And be it further enacted*, That if any person be-
 2 coming bankrupt, shall be in prison, it shall be lawful for any
 3 creditor or creditors, at whose suit he or she shall be in execu-
 4 tion, to discharge him or her from custody, or if such creditor
 5 or creditors shall refuse to do so, the prisoner may petition
 6 the commissioners to liberate him or her, and thereupon, if, in
 7 the opinion of the commissioners, the conduct of such bank-
 8 rupt shall have been fair, so as to entitle him or her, in their
 9 opinion, to a certificate, when by law such certificate might be
 10 given, it shall be lawful for them to direct the discharge of
 11 such prisoner, and to enter the same in their books, which be-
 12 ing notified to the keeper of the jail in which such prisoner
 13 may be confined, shall be a sufficient authority for his or her
 14 discharge: *Provided*, That in either case, such discharge shall
 15 be no bar to another execution, if a certificate shall be refused
 16 to such bankrupt: *And provided also*, That it shall be no bar

17 to a subsequent imprisonment of such bankrupt, by order of
 18 the commissioners, in conformity with the provisions of
 19 this act.

1 SEC. 60. *And be it further enacted,* That this act shall not
 2 repeal or annul, or be construed to repeal or annul, the laws
 3 of any State now in force, or which may be hereafter enacted,
 4 for the relief of insolvent debtors, except so far as the same
 5 may respect persons who are, or may be, clearly within the
 6 purview of this act, and whose debts shall amount, in the
 7 cases specified in the second section thereof, to the sums there-
 8 in mentioned. And if any person, within the purview of this
 9 act, shall be imprisoned for the space of three months, for
 10 any debt, or upon any contract, unless the creditors of such
 11 prisoner shall proceed to prosecute a commission of bankrupt-
 12 cy against him or her, agreeably to the provisions of this act,
 13 such debtor may and shall be entitled to relief, under any
 14 such laws for the relief of insolvent debtors, this act notwith-
 15 standing.

1 SEC. 61. *And be it further enacted,* That the right of prefe-
 2 rence to prior satisfaction of debts due to the United States,
 3 over all other debts, shall continue and exist as if this act had
 4 not been passed.

1 SEC. 62. *And be it further enacted,* That nothing contained

2 in this act, shall be taken or construed to invalidate or impair
 3 any lien existing at the date of this act, upon the lands or
 4 chattels of any person who may have become a bankrupt.

1 SEC. 63. *And be it further enacted*, That if there be any
 2 surplus of the said bankrupt's estate or effects remaining in
 3 the hands of the commissioners or assignees, or any of them,
 4 after the payment and satisfaction of all the debts of the said
 5 bankrupt, which have been admitted by him on his examina-
 6 tion, or proved before the said commissioners, such surplus
 7 shall belong to, and revest in, the said bankrupt, his heirs, ex-
 8 ecutors, or administrators.

1 SEC. 64. *And be it further enacted*, That the circuit courts
 2 of the United States shall have jurisdiction of all cases in law
 3 or equity, arising under this act, and all other acts of the Unit-
 4 ed States on the subject of bankruptcy. And except in the
 5 cases *which are in this act otherwise specially provided for*, if
 6 any bankrupt, or any assignee or assignees, creditor or credi-
 7 tors, or any other person, shall conceive himself, herself, or
 8 themselves aggrieved by any examination, order, decision, deni-
 9 al or other proceeding of the commissioners under any com-
 10 mission, or by any act, proceeding, refusal, neglect, or omission
 11 of the bankrupt, or of any assignee or assignees, or creditor, or
 12 creditors under, or by virtue of this act, or any other act of the
 13 United States on the subject of bankruptcy, it shall be lawful

14 for such person, so conceiving himself or herself aggrieved, to
15 present a petition to the circuit court for the district where the
16 commission issued, in term, or to either of the judges thereof
17 in vacation, setting forth the grievance complained of in a sum-
18 mary manner with convenient certainty; and thereupon such
19 court in term, or either of the judges thereof in vacation, may
20 proceed, in a summary manner, to inquire into, hear, examine,
21 and determine the same, and to take and receive all necessary
22 proofs, and summon and compel the attendance of all necessa-
23 ry parties and witnesses, and to make such order, direction, de-
24 cree or other award in the premises as shall be according to
25 equity and good conscience : and such order, direction, decree,
26 or award shall be conclusive in the premises ; and may be en-
27 forced by attachment or other proper process, in the discretion
28 of the court or judge before whom the same petition shall be
29 decided and adjudged. And whenever any such petition is
30 pending in vacation before any such judge, the same may, in his
31 discretion, be adjourned into the circuit court of the district for
32 further proceedings and a final determination ; and such court
33 may thereupon proceed to hear and determine the same, in the
34 same manner as if originally brought before such court. And
35 it shall be lawful for the court or judge, before whom such
36 petition is pending, in his or their discretion, to direct any facts
37 in controversy to be tried by a jury, to be summoned and em-
38 panned before such court or judge, in such manner and at

39 such time and place as such court or judge shall order and di-
40 rect. And the verdict of the jury so given, unless set aside
41 and new trial granted by such court or judge, shall be conclu-
42 sive as to such facts so in controversy. And all costs and
43 charges incident to the hearing and decision of such petitions,
44 shall be taxed against and paid by such party or parties, as
45 the court or judge, before whom the same is pending, shall,
46 in his or their discretion award and adjudge.